

Report No.

London Borough of Bromley

PART ONE – PUBLIC

Decision Maker: **EXECUTIVE**

For pre decision scrutiny by the Renewal, Recreation and Housing Policy, Development and Scrutiny Committeee on 7th May 2019

Date: EXECUTIVE – 21st May 2019

Decision Type: Non-Urgent Executive Non-Key

Title: HOUSING TRANSFORMATION BOARD: INCREASING AFFORDABLE HOUSING SUPPLY

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Chief Officer: Gillian Palmer; Interim Executive Director (ECHS)

Ward: (All Wards);

1. Reason for report

- 1.1 The supply of social/affordable housing cannot keep pace with demand. The risk of insufficient housing and associated cost of temporary accommodation provision is one of the Council's major risks. Whilst the Council is engaged in a number of workstreams to tackle homelessness at source the principle mitigation is to increase housing delivery.
 - 1.2 This report provides an update on the progress of the Housing Transformation Board in respect of the key workstream areas focusing on options to increase supply and speed up the rate of delivery of cost effective temporary accommodation and affordable housing supply as a direct alternative to the current reliance on use of night rate temporary accommodation.
 - 1.3 It must be noted that these workstreams run alongside and compliment the wider range of activities enshrined on the Council's Homelessness Strategy and forthcoming Housing Strategy which seeks to ensure that homelessness is prevented or relieved wherever possible and that planning, regeneration and housing policies are aligned to support and promote wider development of housing across the Borough.
 - 1.4 The accompanying report titled Gateway Report: Provision of Housing Supply in Anerley and Chislehurst further provides an update on the feasibility work undertaken in respect of Anerley Town Hall overflow car park and Banbury House, Bushell way setting out the business case and next steps for the tender for a contract for the design and build of affordable housing accommodation.

2. RECOMMENDATION(S)

- 2.1 RR&H PDS Committee is asked to note and comment on the contents of this report and support the work streams being progressed by the transformation board and timescales for future reports
- 2.2 The Council's Executive are requested to:
 - (i) Note the contents of this report
 - (ii) Agree that officers appoint specialist advisors to help complete the business case for a local housing company.
 - (iii) Agree that the estimated cost of £100k for the necessary specialist advice and business case production to enable full consideration of setting up a local housing company is funded from the Growth Fund.
 - iv) Agree to proceed to formal tender for a partner for a second phase of property acquisition.

Impact on Vulnerable Adults and Children

1. Summary of Impact: The initiatives set out in this report seek to ensure the provision of affordable housing to support vulnerable adults and young people into settled accommodation suitable for their needs.
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Corporate Policy

1. Policy Status: Existing Policy:
 2. BBB Priority: Quality Environment Supporting Independence:
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Financial

1. Cost of proposal: £100k
 2. Ongoing costs: Not Applicable:
 3. Budget head/performance centre: Operational Housing
 4. Total current budget for this head: £6,241K (net controllable budget)
 5. Source of funding: Growth Fund. Operational Housing approved revenue budget. Contingency set aside for homelessness and welfare reform pressure, and the Homeless Reduction Act.
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Personnel

1. Number of staff (current and additional): N/A
 2. If from existing staff resources, number of staff hours: N/A
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Legal

1. Legal Requirement: Statutory Requirement: Further Details
 2. Call-in: Applicable Not Applicable: Further Details
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Procurement

1. Summary of Procurement Implications: There are no direct procurement implications arising from this report.
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): There is an increasing housing need in the Borough for affordable housing with approximately 3,500 households on the housing waiting list and approximately 1,600 households in temporary accommodation. Around 300 households approach each month in housing need. The current average net cost to the Council for households placed into temporary nightly paid accommodation is £6,490 per household per annum.
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillor's comments: Full consultation would be undertaken with Ward Councillors in respect of all proposed housing developments.

3. COMMENTARY

- 3.1 The significant cost pressures in relation to homelessness and temporary accommodation provision are well rehearsed. Bromley is experiencing severe housing pressures across all tenures with a significant lack of supply of new homes driving up prices and increasing the affordability gap
- .3.2 In recent year's immense change has taken place including welfare reform and national housing and homelessness policies which cumulatively are placing a significant upward pressure on temporary accommodation costs. Additional increases are likely to further increase demands on frontline services in future years which in turn are predicted to place an additional £7m budget pressure on temporary accommodation and homelessness services by 2023.
- 3.3 With the marked decline in housing association lettings and a reduction in the supply of private rented sector accommodation that is affordable to families on mid to low incomes, the net inflow into temporary accommodation is far greater than the move on opportunities available resulting in a silting up of temporary accommodation provision and increased reliance on costly forms of nightly paid accommodation.
- 3.4 A number of measures have been put in place in recent years which have assisted in slowing the rate of increase, particularly in relation to nightly paid placements. This has achieved estimated savings in excess of £11m per year against the average cost of nightly paid accommodation. These measures include increased homeless prevention and relief, increasing temporary accommodation provision through leasing schemes, enhancing the offer to private landlords to increase access for mid to low income households, refurbishment of vacant units, property purchase and working with housing association partners to develop new affordable housing.
- 3.5 Overall during the past 5 years the number of households in temporary accommodation has risen by more than 90% from 824 in 2014 to 1,556 households in April 2019. Despite the variety of measures the number in temporary accommodation is still rising.
- 3.6 Whilst these mitigation actions remain critical in helping to stem the rate of increased use in nightly paid TA, they are not in themselves sufficient to reduce the current pressures and cannot keep pace with the level of housing need.
- 3.7 The level of new-build affordable housing developments has significantly reduced in recent years. The majority of new affordable supply currently being delivered in Bromley is linked to open housing market-led developments where a proportion of new housing is required to be provided on site as affordable units under (s106) planning obligations. These s106 affordable homes are generally transferred by private developers to the Council's Registered Provider (RP – housing association) partners once built and the Council then nominates households in housing need from its housing register to these new affordable homes.
- 3.8 Registered Providers have therefore been the Council's main historical source of new affordable housing supply. However, RPs are unable to compete with the private sector in Bromley for development site opportunities due to the high cost of land. Also, RPs operating in Bromley have limited development capacity within their own estates to deliver new affordable housing supply. In addition a high proportion of new developments, based upon independent financial viability assessments are unable to sustain developments which achieve the compliance rate of 35% affordable housing. Whilst the Council remains committed to working with private developers and RPs to develop new affordable housing, it must be noted the existing arrangements provide very limited control over new homes that are built including the use and level of supply.

- 3.9 As such the Council has committed to exploring additional options to increase the pace and level of affordable housing supply for Bromley residents ensuring that this not only seeks to address current housing needs but also to ensure services and housing provision are aligned to meet the growing demand that is being experienced and projected for future years.
- 3.10 The Council's Executive agreed in November 2018 in principle to the establishment of a Council affordable development programme, the identification of council-owned sites to facilitate this development programme and for officers to explore options in respect of a delivery vehicle for this development programme and to secure ongoing nomination rights. This work is the key focus of the Housing Transformation Board which was set up towards the end of 2018.
- 3.11 Within this context the Housing Transformation Board has developed the following key work streams in relation to the Council's direct involvement in facilitating affordable housing and temporary accommodation supply as a viable alternative to the current reliance on use of nightly rate temporary accommodation. It must be noted these work streams run alongside and compliment a wider range of activities enshrined in the Council's Homelessness Strategy and forthcoming Housing strategy which seek to ensure that homelessness is prevented or relieved wherever possible and that planning, regeneration and housing policies are aligned to support and promote the wider development of housing across the borough:
- Increasing the supply of new cost effective temporary accommodation – Up to 250 units over the next 2 years
 - Property acquisition through purchase and repair – up to 400 over the next 3 years
 - Use of Bromley owned or acquired sites to establish a development programme for new affordable housing supply – initially up to 600 units over the next 3 years
 - a) Identification of sufficient sites to facilitate this development programme
 - b) establishing a delivery, ownership and management vehicle to enable delivery of this programme.

1. Increasing the supply of cost effective temporary accommodation:

- 3.12 This work stream seeks to utilise small sites for the development of up to 250 temporary accommodation units as a direct cost effective alternative to the use of nightly paid accommodation. Officers have explored a variety of models to assess development options and are recommending the use of off-site manufacturing for units to secure speed of delivery, cost effectiveness and flexibility in design. Development times are considerably quicker averaging around 9 -10 months from inception to completion. Work is underway to identify a sufficient supply of sites and this is due to be reported back to Members in due course. In the meantime there are 2 key projects already underway:
- 3.13 **York Rise:** Members agreed to seek a full turnkey solution where a service provider will design, build, install and manage modular units on behalf of the Council to enable the Council to meet its statutory obligations. Procurement is subject to full OJEU tender process via the negotiated route.
- 3.14 The York Rise tender was the first of this kind in Bromley, with few established examples elsewhere to enable learning. It has been a complex process, which officers have been working hard to manage in order to obtain the best outcome for the Council. Any lessons learnt will help to inform future tender processes for this type of solution.

- 3.15 Work is progressing to the final stages of the evaluation process which should now be concluded to enable a report to Members for contract award in May 2019, with the aim of completing units towards the end of 2019/20, subject to successful planning permission.
- 3.16 This scheme, subject to planning permission, will produce a minimum of 30 self-contained good quality temporary accommodation units as a direct alternative to nightly paid temporary accommodation. Once a successful provider has been appointed extensive consultation will be undertaken with Ward Councillors and local residents to complete the design proposals and feed into planning considerations. The report detailing the outcome of the tender process will include the full financial business case for consideration and approval.
- 3.17 **Banbury House, Bushell Way and Anerley Town Hall overflow car park.** The Council's Executive in November 2018 agreed in principle for the use of these 2 sites for affordable/temporary housing provision subject to further feasibility work and planning permission.
- 3.18 Since this time officers have undertaken feasibility analysis to assess the sites to ensure their suitability for affordable accommodation, alongside market testing to assess the potential development options and procurement of a supplier. The accompany report titled Gateway Report: Provision of Housing Supply in Anerley and Chislehurst sets out the business case and proposed procurement route aimed to now progress these schemes for completion by the end of 2019/20. Overall it is anticipated that the sites will accommodate in excess of 57 units.

Work stream two – Property Acquisitions:

- 3.19 The Executive on 23rd March 2016 agreed to set up an SPV (special purpose vehicle) between Mears Group and the Council to acquire stock for temporary accommodation. More Homes Bromley SPV was therefore set up as a joint partnership between the Council and Mears to acquire 400 properties. This programme has now nearly completed with all 400 units due to be completed by early 2019/20.
- 3.20 The Executive agreed in November 2018 for officers to explore the options for a second property purchase scheme including soft market testing to help inform the proposals and procurement route. Approval was also given to exploring the feasibility of extending the current More Homes SPV to maintain the current momentum on supply.
- 3.21 Officers have explored the potential to extend the existing More Homes SPV to prevent any delay in the acquisition programme. However this would still need to demonstrate value for money compared to other potential suppliers/funders. This has confirmed that the current funders would not be able to extend beyond a further 100 units and would require a higher yield. Cheaper borrowing rates may be available. In addition options to set up a separate SPV and acquire a new funder would not be permitted within the existing contract terms.
- 3.22 To this end officers issued a Notice to start engagement with the market around setting up a similar property acquisition programme. This work has confirmed that there is interest in the market with potential for more preferable funding offers. The majority of models are predicated on a similar arrangement to the existing More Homes Bromley model in that they propose a purchase and repair scheme operating through an SPV. At this stage only high level proposals have been submitted which do not set out detailed funding arrangements or secure the cost of the funding.
- 3.23 Based upon the above it is not possible to confirm that an extension would secure the best value for money and also there would be risk should this require a separate SPV to be established. As such it is recommended that the Council proceed to tender for a partner for a new SPV for acquisition and management of up to a further 400 additional homes.

3.24 Capital funding will be required for the purchase and repair of properties required. The tender process would request options for securing funding from the market or for the utilisation of borrowing through the Council in order to ensure that the Council secures best value. Models would be expected to operate on the basis that the rental stream repays financing costs together with the total or majority of the costs associated with the management and maintenance of units thus providing a significant saving against the current costs of temporary accommodation provision.

3.25 The model would secure full nomination rights and flexibility for us for temporary and settled housing solutions to best meet the statutory housing requirements in the most effective way.

3.26 The table below sets out the proposed procurement timescale:

High Level Task	Indicative Date
Gateway Authorisation to Proceed to Procurement	May 2019
Draft the Specification Requirements and Procurement/Legal Documents	May 2019
OJEU Notice and Contracts Notice Published and Tender process starts	June 2019
SQ Stage 1 Procurement Process Starts	June 2019
SQ Stage 1 Procurement Process Ends	July 2019
Evaluation of SQ Stage 1 (Including clarification)	July 2019
Invite to Stage 2 of the Tender process - Notification of outcome of Stage 1	August 2019
Tender Stage 2 commences	August 2019
Tender Stage 2 Ends	October 2019
Verification that the Tender bids meet the Councils Minimum requirements	November 2019
Evaluation of Stage 2 (Including clarification)	November 2019
Invite to Negotiation	November/December 2019
Successive rounds of Negotiation and resubmissions as Required	December/January 2020
Identify proposed winning tenderer	February 2020
Financial Sensitivity analysis	March -June 2020
Proposed Award/Authorisation	June /July 2020
Standstill	June/July 2020
Mobilisation	July/August 2020
Finalise the Legal Documents	July/August 2020
Contract Start	September 2020

3.27 Tenders will be evaluated on a 60% Price and 40% quality basis with a minimum quality score. Quality will be assessed considering experience in this field, ability to mobilise and secure units quickly, effective proven track record on tenancy management, repairs and maintenance.

3.28 Consideration could be given to acquiring properties through a local housing Company as set out below. However as the formation of a local housing company is still in its feasibility stage timescales are uncertain and as such it is recommended that the tender for an SPV partner for property acquisition progresses alongside this work to prevent delays in the overall programme to increase housing supply.

Work stream 3 - Use of Bromley owned or acquired sites to establish a development programme for new affordable housing supply

a) Identification of sufficient sites to facilitate this development programme

- 3.30 Critical to ensuring the success of a delivery programme is the identification of a sufficient supply of suitable sites. Work is currently underway to complete a long list of sites for consideration and approval. All sites identified will be subject to individual feasibility studies and business cases. Full consultation on proposals would also be undertaken prior to any planning application being submitted.
- 3.31 Individual sites will be brought forward as feasibility work is concluded with a full updated list of sites due to be presented to Members for consideration and approval in autumn 2019.
- b) Establishing a delivery, ownership and management vehicle to enable delivery of this programme.**
- 3.32 In order to progress the above delivery programme a delivery and management vehicle is required. The purpose of this is to increase supply and compliment existing mechanisms such as provision of affordable housing secured through s106 agreements with partner housing associations. Analysis work has been undertaken of the various modelled with the option of a local housing company (LHC) structure emerging as the most beneficial option to provide speed of delivery, flexibility in funding, tenure and delivery together with the potential for an income stream. Appendix one of this report provides a high level analysis of the various options available.
- 3.33 A LHC is a generic name for a housing delivery vehicle which is usually a separate legal entity, either wholly or predominantly owned by the Council. In recent years local authorities have set up an increasing number of LHCs. There are currently around 150 local housing companies in England with numbers expected to exceed 200 by 2020.
- 3.34 A LHC Vehicle, unlike other models, is 100% controllable by the Council. As such, the model offers the most favourable option in terms of control, influence, freedom, and flexibility regarding funding and tenure.
- 3.35 LHCs are relatively easy to set up, scale up or down, or even wind down as required by the Council. They can run alongside other models and do not preclude the use of joint ventures or working with a housing association on specific schemes.
- 3.36 However, the set-up costs, requirements to pay corporation tax on any surpluses generated, as well as any additional overhead requirements will need to be fully considered against the wider benefits.
- 3.37 Based upon the above analysis officers request approval to procure specialist legal and financial advice to assist the Council to complete the full business case setting out the governance, structure and financial resources required for set up. This would then be presented for formal consideration and approval.

4. IMPACT ON VULNERABLE ADULTS AND CHILDREN

- 4.1 The provision of cost effective temporary accommodation and affordable housing supply will provide suitable, safe accommodation to meet housing need enabling the Council to meet its statutory housing obligations and to safeguard and protect those who are most vulnerable.

5. POLICY IMPLICATIONS

- 5.1 The Council has a published Homelessness Strategy which sets out the approved strategic policy in terms of homelessness. This includes temporary accommodation and settled housing provision to reduce the reliance on nightly paid accommodation. The Council already works with a range of providers in the provision of affordable housing.

6. FINANCIAL IMPLICATIONS

- 6.1 The current average net cost of nightly paid accommodation is around £6,500 per household per annum, as set out in the table below.

	Annual charge	Rent income	Net cost
	£	£	£
Single Room	9,656	8,471	1,185
Studio	12,493	8,288	4,204
Self Contained (1 Bed)	12,716	7,325	5,391
Self Contained (2 Bed)	15,669	8,808	6,861
Self Contained (3 Bed)	19,244	10,854	8,390
Self Contained (4 Bed)	23,643	16,148	7,495
Weighted average	15,718	9,228	6,490

- 6.2 The full financial appraisal of the proposed schemes referred to in the report, the resulting savings on the cost of temporary accommodation and any opportunities to obtain grant funding will be considered as part of the business case in subsequent reports.
- 6.3 The report requests that specialist advice be procured for the business case for a local housing company, and it is proposed that a sum of £100k be allocated from the Growth Fund for this purpose.

7. LEGAL IMPLICATIONS

Recommendation 2.2 (ii): Setting up LHC

- 7.1 Section 1 of the Localism Act 2011 provides local authorities with the power to do anything an individual may do subject to a number of limitation (this is referred to in the General Power). A local authority may exercise the General Power for its own purposes, and/or for the benefit of others. Section 95 of the Local Government Act 2003 provides an almost identical power to set up a company to trade in function related activities and the Council can rely on one of both of these powers to set up the LHC.
- 7.2 Although the intention is to set up a company to provide housing a detailed business case is yet to be formulated which will inform the type of housing to be provided and the financial model for a viable delivery structure. Section 4(2) of the Localism Act requires that where a local authority exercises /uses the general power for a commercial purpose, it must do this through a company. Section 2 of the Localism Act 2011 limits the exercise of the new general power where it overlaps with a power which predates it, such as Section 95 of the Local Government Act 2003. Whether the Council relies on the General power and/or the Section 95 of the Local Government Act, it is prudent for it to comply with the requirements and limitations to which S.95 is subject. These are set out in Regulation 2 of The Local Government (Best Value Authorities) (Power to Trade) (England) Order 2009 (the Order) which requires a business case to be prepared and approved by the Council before a company starts trading. Regulation 2(4) of the Order defines “business case” as a comprehensive statement of:-
- The objectives of the business;
 - The investment and other resources required to achieve those objectives;
 - Any risks the business might face and how significant these risks are; and
 - The expected financial result of the business, together with any other relevant outcomes that the business is expected to achieve.

- 7.3 Once the business case is formulated detailed legal advice will be required on setting up the company including on issues such as state aid, financial arrangements, governance and on drafting of appropriate commercial documents. It will be cost effective to use a combination of in-house resource and an external law firm to provide legal support. Dedicated funding is required to source expertise from external legal advisers as appropriate and to secure in-house legal resource to work on the project.

Recommendation 2.2 (iii): tender for SPV

- 7.3 Any procurement to set up an SPV with a chosen development partner will need to be carried out in full compliance with the Public Contracts Regulations 2015.

8. PROCUREMENT IMPLICATIONS

- 8.1 This report seeks approval to proceed to procurement on setting up a Special Purpose Vehicle with a development partner. The anticipated contract duration is 40 years.
- 8.2 It is proposed that the competitive procedure with negotiation is used.
- 8.3 Due to the estimated contract value and the classification of the contract as a services contract, the procurement process shall comply with the Public Contract Regulations 2015 for an OJEU procurement process. These obligations include the following:
- i) The tender must be advertised in OJEU and Contracts Finder.
 - ii) The relevant contract award notices must subsequently be published.
 - iii) The procurement must comply with EU Treaty principles of transparency and equal treatment.
 - iv) The procurement must conform with the information provided in the OJEU advert regarding any conditions for participation; time limits for contacting/responding to the authority; and the award procedure to be applied.
 - v) Time limits imposed, such as for responding to adverts and tenders, must be reasonable and proportionate.
- 8.4 The Council's specific requirements for authorisation to proceed to procurement are covered in 1.3 of the Contract Procedure Rules with the need to obtain the formal Agreement of the Director of Commissioning, the Director of Corporate Services and the Director of Finance for a procurement of this value.
- 8.5 In compliance with the Council's Contract Procedure Rules (Rule 3.6.1), this procurement must be carried out using the Council's e-procurement system.
- 8.6 The actions identified in this report are provided for within the Council's Contract Procedure Rules, and the proposed actions can be completed in compliance with their content.

Non-Applicable Sections:	PERSONNEL
Background Documents: (Access via Contact Officer)	Executive Part 2 – Increasing housing supply to meet housing need. 28 th November 2018. Executive – part 1- Contingency drawdown homelessness and temporary accommodation pressures – 27 th March 2019 London Borough of Bromley Homelessness Strategy 2018-2023

Appendix 1: Developing new homes – Council owned/acquired sites, acquired: Housing Delivery and Management Models:

Vehicle Options	Description	Pros	Cons
In-house council owned and managed through housing revenue account.	Council ramps up its in-house delivery and management capacity. Subject to strict legislative framework including Housing revenue account and right to buy.	Quick to establish as no new company set up. However would need to recruit resources for sufficient delivery capacity/expertise requiring significant investment.	Any surpluses are ring-fenced for use within the Housing Revenue Account and not available for the General Fund Structure does not in itself bring in cash, skills or resources - met through council funds Restrictions on the type of tenure and lack of flexibility to change tenures/terms to respond to market changes.
Housing association (HA) as developer/stock owner	Land transferred to HA to develop .stock owned by HA. Subject to legislative framework and usually right to buy	Procurement of preferred provider relatively quick. Expertise of HA as developer and manager of stock. Access to GLA funding	No revenue streams. Lack of control over use and nomination levels. Lack of control over the tenure and mix of homes developed.
Single Local Housing Company for ownership	Limits company to holding/managing assets. Usually assets sold to/bought by the company on 'arms-length' basis through the Council or transferred under a development agreement. Outside HRA – flexibility rent/tenures	Revenue streams. Allows for commercial activity. Ability to lever in capacity/expertise and engages in supply market.	Relies on existing suppliers in market for pace and level of delivery. Does not in it create more units?
Single Local Housing Company for development	Company takes on development/delivery roles. Can design sites/programme/bring sites to the market more quickly.	Engage in local market supply as a developer thus increasing level /speed of delivery. Creation of capital receipts/ Allows for commercial activity.	Usually no revenue stream. Does not necessarily guarantee nomination or access rights to units.
Local Housing Company with subsidiaries (development and ownership)	Carries out role of developer & longer term ownership/management. Can structure as group/subsidiaries to ring-fence risk/increase flexibility. Can increase structure as required for specific site/tenures or combine with JV. Outside HRA flexibility rent and tenures	Ability to lever in development & management capacity to engage and influence speed/level of delivery/range of housing supply. Creation capital receipts and revenue stream and new homes bonus Allows for commercial activity. Outside HRA so flexibility of rent and tenures.	Requires range of expertise which needs to be levered in. Set up costs will need to be incurred. Corporation tax will likely apply to any profits/surpluses generated
Joint Venture	Engage with developer (private or housing association) for certain project/s where of sufficient size/value to justify this. Partnerships usually 50/50 – assumption Council's land/partner cash. Often preferred on complex sites	Allows risk and reward share. Access to skills and capacity via JV partner Can lever in additional funding streams New homes bonus Can be used in conjunction with a LHC where a partner could assist in bringing key skills or funding to enable the development.	Procurement and set up costs tend to be higher and longer lead in for procurement. Usually site based. Partner usually required exclusivity eg: on development/ownership/management which can limit flexibility.